

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CODY BLALOCK, CASSIE
BLALOCK and FLOYD BJ BLALOCK, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

FLOYD BRYAN BLALOCK,

Respondent-Appellant,

and

BARBARA SMART,

Respondent.

UNPUBLISHED

June 22, 2006

No. 266106

Livingston Circuit Court

Family Division

LC No. 04-010484-NA

Before: Davis, P.J., and Sawyer and Schuette, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(g) and (h). We affirm.

Respondent-appellant first argues that the trial court clearly erred in finding that the statutory bases for termination were established by clear and convincing evidence. We disagree. At the time of trial, respondent-appellant was incarcerated with a maximum sentence of eight years. Because of his incarceration, he was not able to provide proper care and custody for the children. Further, there was no evidence of when respondent-appellant would be eligible for parole or released. Based on the recent eight-year sentence, however, the trial court did not clearly err in finding that the children would be deprived of a normal home for more than two years. Further, there was evidence that, upon release, respondent would need, at the very minimum, six months to be able to provide proper care and custody for the children. Therefore, the trial court did not clearly err in finding that there was no reasonable expectation that respondent-appellant would be able to provide proper care and custody for the children within a reasonable time, considering their ages.

We also find that the trial court did not clearly err in its best interests determination where the children told their therapist that, before placement, they were concerned about having enough food, they were often left alone, they had to search for their mother because she had drank too much, they did not have to go to school, and respondent-appellant was not around much. The children had educational, emotional, and behavioral problems when they came into care. In the short time the children resided with their aunt, most of their issues were resolved and the children wanted to stay with their aunt. The children's therapist testified that they were anxious for a permanent home with their aunt and that they needed stability and permanency. Even if respondent-appellant were an ideal parent, it was unknown when he would be released from prison and able to care for the children. Therefore, the trial court did not clearly err in its best interests determination.

Affirmed.

/s/ Alton T. Davis
/s/ David H. Sawyer
/s/ Bill Schuette